

## SUBCOMMITTEE NO. 2

## Agenda

**S. Joseph Simitian, Chair**  
**Alan Lowenthal**  
**Bob Huff**



**Thursday, March 19, 2009**  
**9:30 a.m. or upon adjournment of session**  
**Room 2040**

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### **Resources—Environmental Protection—Energy—Transportation**

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## 0555 Secretary for Environmental Protection

**Background.** The Secretary for Environmental Protection heads the California Environmental Protection Agency (Cal-EPA). The Secretary is responsible for overseeing and coordinating the activities of the boards, departments, and office under the jurisdiction of Cal-EPA.

**Budget Act.** The *2009-10 Budget Act* includes \$15.1 million to support the Secretary for Environmental Protection. This is a 1.2 percent increase over estimated expenditures in the current year. General Fund support for the Secretary is about \$1.9 million.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Administration	\$ 14,976	\$ 15,161	\$ 185	1.2
<b>Total</b>	\$ 14,976	\$ 15,161	\$ 185	1.2
<b>Funding Source</b>				
General Fund	\$ 1,883	\$ 1,932	\$ 49	2.6
Special Funds	8,306	8,328	22	0.3
<i>Budget Act Total</i>	<i>10,189</i>	<i>10,260</i>	<i>71</i>	<i>0.7</i>
Reimbursements	1,974	2,004	30	1.5
State Water Quality Control Fund	188	188	0	0
Environmental Enforcement and Training Account	2,066	2,132	66	3.2
Environmental Education Account	559	577	18	3.2
<b>Total</b>	\$ 14,976	\$ 15,161	\$ 185	1.2

## 1. Employee Ratio

**Agency Duties.** The Secretary for Environmental Protection heads the California Environmental Protection Agency (Cal-EPA). The Secretary is responsible for overseeing and coordinating the activities of the boards, departments, and office under the jurisdiction of Cal-EPA.

**Agency Positions.** The Secretary for Environmental Protection office has 67.7 positions. The CalEPA departments have a total of 4,884 positions. This is a ratio of 72 department positions for each agency level position.

By comparison, the Secretary for Natural Resources has 81.1 positions, and 17,539 department employees. This is a ratio of 216 department positions for each agency level position. It should be noted that some departments within the Resources Agency have a large number of staff, such as CalFIRE with 6,244 positions or the Department of Parks and Recreation with 3,370 positions.

**Staff Comments.** The large number of agency level staff per department employee at the Secretary for Environmental Protection raises questions about the agency's efficiency in coordinating the CalEPA departments and its role in contributing to programs. Staff recommends that the Subcommittee ask the Agency Undersecretary to explain the agency's coordination of departments and how these employees increase the value of the CalEPA's work as a whole.

CalEPA also has a number of vacant positions in the departments. The seven CalEPA departments have a total of 433 vacant positions. This is a vacancy rate of 8.8 percent for the departments. These vacancies break down as follows:

- Air Resources Board – 60 vacant positions
- CIWMB – 84 vacant positions
- Pesticide Regulation – 30 vacant positions
- SWRCB – 139 vacant positions
- Toxic Substances Control – 107 vacant positions
- OEHHA – 13.6 vacant positions

## 2. AB 32

**Background.** The California Global Warming Solutions Act of 2006 (AB 32, Nunez), requires the reduction of statewide greenhouse gas emissions (GHG) to 1990 levels by 2020. The act states that global warming poses a threat to California's economy, public health, natural resources, and environment, and states the necessity of federal and international action to effectively combat global warming. However, the act also notes that California's early efforts to reduce GHG emissions can encourage similar actions by other states, the federal government, and the other countries and position California's economy to benefit from future efforts to limit GHG emissions in other jurisdictions.

The act charges ARB as the sole state agency responsible for monitoring and regulating sources of GHG emissions and gives ARB a role in coordinating with other state agencies and stakeholders in implementing AB 32. The ARB is to require and monitor comprehensive reporting of statewide GHG emissions, determine the state's GHG emissions levels in 1990, and adopt regulations to reduce statewide GHG emissions, by the year 2020, to what they were in 1990.

The act also calls for the Climate Action Team—the multiagency body established in 2005 by executive order and led by the Secretary for Environmental Protection—to continue its coordination of overall climate policy.

**AB 32 Funding.** This chart shows the funding level for AB 32 implementation by department:

Department		Base Funding (000)	New Funding in 2009-10 (000)	Total Funding in 2009-10 (000)	Total Positions
0540	Secretary for Resources	\$425	\$0	\$425	2.0
0555	Secretary for Environmental Protection	\$1,764	\$0	\$1,764	6.0
1760	Department of General Services	\$2,936	\$0	\$2,936	5.0
3360	California Energy Commission	\$610	\$0	\$610	5.0
3540	Department of Forestry and Fire Protection	\$1,481	\$5,395	\$6,876	8.0
3860	Department of Water Resources	\$1,400	\$1,705	\$3,105	17.0
3900	Air Resources Board	\$32,052	\$362	\$32,414	153.0
3910	Integrated Waste Management Board	\$0	\$1,312	\$1,312	6.0
8570	Department of Food and Agriculture	\$343	\$0	\$343	2.0
8660	Public Utilities Commission	\$602	\$0	\$602	1.0
<b>Totals</b>		<b>\$41,613</b>	<b>\$8,774</b>	<b>\$50,387</b>	<b>205.0</b>

**Western Climate Initiative.** On February 26, 2007, Governor Schwarzenegger, along with the Governors of Arizona, New Mexico, Oregon, and Washington signed an agreement establishing the Western Climate Initiative (WCI), a joint effort to reduce greenhouse gas emissions and address climate change. In the spring of 2007, the Governor of Utah and the Premiers of British Columbia and Manitoba joined the WCI. Montana joined in January, 2008. Other U.S. and Mexican states and Canadian provinces have joined as observers.

According to the WCI's memorandum of understanding, WCI members agreed in August 2007 to a regional emissions target of an aggregate reduction of 15 percent below 2005 levels by 2020. Covered emissions include the six primary greenhouse gases identified by the United Nations Framework Convention on Climate Change: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Although the regional target is designed to be consistent with existing targets set by individual member states and is not intended to replace these goals, the AB 32 requirements are far more stringent than the WCI guideline. Under AB 32, California must reduce its greenhouse gas emissions by 25 percent to get to the 1990 emissions goal.

The WCI members have also agreed to establish a market-based system – such as a cap-and-trade program covering multiple economic sectors – to aid in meeting their reduction goal. California law requires a careful evaluation of all possible emissions control mechanisms before a single method is endorsed, and so far such an evaluation has not been conducted.

**Missing Report.** The *2007-08 Budget Act* included trailer bill requiring the Secretary for Natural Resources to submit to the Legislature an annual “Report Card” on greenhouse gas reductions. The agency submitted the report in March 2008. However, this report has not been received for 2009.

**Staff Comments.** AB 32 designates the Secretary for Environmental Protection as the lead of the Climate Action Team but does not otherwise provide a formal role for the Secretary. The Secretary's office has assumed the role of international liaison for California on global warming issues. During 2008, representatives from the agency attended climate change conferences in Bali and Poland. The Subcommittee may wish to have the Secretary's office clarify its role in the climate change response to the Subcommittee.

Staff is concerned that the Secretary's office may be disproportionately utilizing resources for climate change activities at the expense of the other programs they are supposed to be overseeing. Staff recommends that the Subcommittee members ask the Secretary how many of the staff positions are devoted to climate change, and how much in state financial resources is the Secretary's office spending on climate change related activity such as travel and conferences?

Participation in the Western Climate Initiative (WIC) is not directly authorized by the AB 32 statute. The WIC is focused on a single carbon control structure of cap-and-trade. Staff recommends that the Subcommittee members ask the Secretary to explain why California is participating in the WIC and provide detail as to what benefits California can expect from the WIC.

## 3900 Air Resources Board

**Background.** The Air Resources Board (ARB), along with 35 local air pollution control and air quality management districts, protects the state's air quality. The local air districts regulate stationary sources of pollution and prepare local implementation plans to achieve compliance with federal and state standards. The ARB is responsible primarily for the regulation of mobile sources of pollution and for the review of local district programs and plans. The ARB also establishes air quality standards for certain pollutants, administers air pollution research studies, and identifies and controls toxic air pollutants.

**Budget Act.** The 2009-10 Budget Act includes \$629 million to support the ARB in 2008-09. This is about the same as estimated expenditures in the current year. General Fund support for the ARB was cut in 2008-09 due to the budget crisis.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Mobile Source	\$ 563,276	\$ 560,798	-\$2,478	-0.4
Stationary Source	57,049	58,359	1,310	2.3
Subvention	10,111	10,111	-	0.0
Capital Outlay	1,491	-	-1,491	-100.0
Administration	15,085	15,244	159	1.1
<i>less distributed administration</i>	<i>-15,085</i>	<i>-15,244</i>	<i>-159</i>	<i>1.1</i>
<b>Total</b>	<b>\$ 631,927</b>	<b>\$ 629,268</b>	<b>-\$2,659</b>	<b>-0.4</b>
<b>Funding Source</b>				
General Fund	\$ 193	\$ 196	\$ 3	1.6
Special Funds	359,085	353,746	(5,339)	-1.5
Bond Funds	251,236	253,533	2,297	0.9
<i>Budget Act Total</i>	<i>610,514</i>	<i>607,475</i>	<i>-3,039</i>	<i>-0.5</i>
Federal Trust Fund	15,702	15,975	273	1.7
Reimbursements	5,711	5,818	107	1.9
<b>Total</b>	<b>\$ 631,927</b>	<b>\$ 629,268</b>	<b>-\$2,659</b>	<b>-0.4</b>

## 1. AB 32 Implementation Overview

**AB 32 Background.** The California Global Warming Solutions Act of 2006, (AB 32, Nunez) requires the reduction of statewide greenhouse gas emissions to 1990 levels by 2020. This is a 25 percent reduction over current levels, or approximately 174 million metric tons of greenhouse gas (GHG) emissions. This bill codified the intent of Executive Order S-3-05, and expressed the Legislative intent to continue reductions in emissions of GHG beyond 2020.

AB 32 designated the Air Resources Board as the lead agency in addressing GHG emissions, including planning, regulatory, and enforcement efforts. In December 2008, the Air Resources Board adopted a Scoping Plan to reduce GHG emissions to 1990 levels. The largest GHG emitters in California are the transportation and energy sectors, while cattle and landfills also contribute significant amounts of GHG.

## 2. Implementation of Greenhouse Gas Reporting Regulation and Voluntary Credits

**Reporting Requirement.** The California Global Warming Solutions Act of 2006, also known as AB 32 (Nunez, 2006), requires the Air Resources Board (ARB) to adopt regulations for the mandatory reporting and verification of greenhouse gas emissions from major sources. In December 2007, the ARB adopted regulations that require sources responsible for 94 percent of the state's greenhouse gas emissions to report on those emissions by 2010. The regulations also require verification of emissions by ARB-accredited third parties.

**Verification.** The ARB is requiring greenhouse gas emissions reporting be verified by third parties starting in 2010. The ARB argues that independent verification will provide fairness in the regulatory arena and the rigor required to support market trading. This request includes \$200,000 for contract funds which the ARB would use to develop the third-party emissions verification system. The funds would be used for developing and implementing a training and accreditation program for third-party verifiers. The verifiers would have to meet minimum standards for engineering and financial accounting, as well as have no conflict of interest regarding the emissions source.

**Budget Act.** The *2009-10 Budget Act* includes \$362,000 from the Air Pollution Control Fund for one permanent position to implement additional responsibilities related to mandatory greenhouse gas emissions reporting. The amount includes \$200,000 for contract funds.

**Staff Comments.** It is not clear why compliance with a regulation would have to be verified by a third party. Enforcement of regulatory compliance has traditionally been the responsibility of the regulatory agency.

**Staff Recommendation.** Staff recommends that the Subcommittee have the department explain why they selected third party verification and return to this issue at the May open issues hearing.

### 3. Heavy-Duty Diesel Regulatory Implementation

**Background.** California is not in compliance with the federal Clean Air Act. Over 90 percent of Californians live in regions of the state with poor air quality. Two areas, the South Coast region and the San Joaquin Valley have been identified as having the worst air quality in the nation. The federal Clean Air Act was amended in 1990 to require non-compliant states to develop State Implementation Plans (SIPs) and risk losing federal highway funds if clean air standards are not attained. For California, non-attainment of clean air requirements places \$1.8 billion in federal funds at risk.

**Truck and Bus Rule.** To respond to the federal Clean Air Act, the Air Resources Board (ARB) in December 2008, approved new regulations requiring all diesel-powered trucks and buses over 14,000 pounds that operate on-road to be retrofitted with clean-air technology. These types of vehicles were not previously regulated for emissions. California has nearly 420,000 trucks and buses and over 500,000 out-of-state trucks and buses, including vehicles crossing international borders. The ARB anticipates that this new regulation will reduce smog-forming emissions from trucks by over 33 percent and toxic emissions by over 85 percent.

**Industry Concerns.** Retrofitting existing fleets of trucks and buses carries substantial cost to the industry. Each retrofit is estimated to cost approximately \$15,000. Industry has expressed concerns that if the rule is not monitored, non-compliant businesses would have lower operating costs than compliant businesses.

**Budget Act.** The *2009-10 Budget Act* includes \$1,600,000 from the Motor Vehicle Account for five permanent positions. The amount includes \$750,000 in one-time funds for external consultants.

**Staff Recommendation.** Staff recommends that the Subcommittee keep this item in the budget.

### 4. Implementation of SB 375

**SB 375.** SB 375 (Steinberg, 2008) provides incentives for integrated regional land use planning and local development for improved mobility and reduced greenhouse gas emissions consistent with the California Global Warming Solutions Act of 2006 (AB 32). SB 375 requires the Air Resources Board (ARB) to develop, adopt, and track regional greenhouse gas emission reduction targets for cars (“light duty vehicles”). SB 375 requires a plan for each of the 17 federally designated metropolitan areas in the State.

**Position Tasks.** The two requested positions would develop, track, and update regional greenhouse gas emission reduction targets on an ongoing basis. They would also conduct ongoing reviews of submitted Sustainable Community Strategies and Alternative Planning Strategies that demonstrate achievement of the regional targets. Lastly, they would work with the Regional Target Advisory Committee.



**Contract Funds.** The \$300,000 requested for contract funds would be used for developing and applying methods and criteria for conducting the technical reviews of regional greenhouse gas emission reduction modeling, as well as the methods used by the Metropolitan Planning Organizations to develop Sustainable Community Strategies and Alternative Planning Strategies.

**Budget Act.** The *2009-10 Budget Act* includes \$682,000 from the Air Pollution Control Fund for two permanent positions for SB 375 implementation. The funds include \$300,000 for contracts.

**Staff Recommendation.** SB 375 has the potential to dramatically change land use planning for the better. Effectiveness of this new policy will greatly depend on implementation. Staff recommends that the Subcommittee keep this item as part of the budget.

## 5. Proposition 1B Bond Fund Expenditures - Informational

**Proposition 1B.** In November 2006, the voters passed Proposition 1B, which provides \$1 billion for addressing air quality along California's trade corridors.

The Air Resources Board (ARB) defines California's trade corridors as the Los Angeles/Inland Empire Region, the Central Valley Region, the Bay Area Region, and the San Diego/Border Region.

**California Air Quality.** The diesel trucks, ships, harbor craft, locomotives, and cargo handling equipment that move goods through California's ports and trade corridors emit large amounts of diesel particulate matter (PM) and nitrogen oxides (NOx). Diesel PM is a toxic air contaminant. Diesel PM from all sources (not just goods movement related) accounts for approximately 70 percent of the known cancer risk from air toxics in California. NOx contributes to the atmospheric formation of ozone and the fine particles that are linked to premature death.

Port-related operations and goods movement throughout California are responsible for about 70 percent of the total diesel PM emissions in the state, and nearly 40 percent of the NOx emissions. The goods movement sectors operate in close proximity to neighborhoods. Some goods movement, such as locomotives, are outside the state's regulatory authority.

**Previous Budget Actions.** The *2007-08 Budget Act* provided the ARB with \$250 million in Proposition 1B bond funds to provide incentives for clean technology in goods movement.

In addition to funds for goods movement, the *2007-08 Budget Act* provided the ARB with \$193 million for replacement and retrofit of diesel school buses.

Also, the *2009-10 Budget Act* provides the ARB with an additional \$3 million for school bus replacement and retrofits.

## 3910 California Integrated Waste Management Board

**Background.** The California Integrated Waste Management Board (CIWMB), in conjunction with local agencies, is responsible for promoting waste management practices aimed at reducing the amount of waste that is disposed in landfills. The CIWMB administers various programs that promote waste reduction and recycling, with particular programs for waste tire and used oil recycling. The board also regulates landfills through a permitting, inspection, and enforcement program that is mainly carried out by local enforcement agencies that are certified by the board. In addition, CIWMB oversees the cleanup of abandoned solid waste sites.

**Budget Act.** The 2009-10 Budget Act includes \$257.3 million to support CIWMB in the budget year. This is an approximately 9 percent increase over the level of support in the current year. This increase is due to additional expenditures from the Tire Recycling Management Fund and Electronic Waste Recovery and Recycling Account. The board does not receive General Fund support.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Waste Reduction and Management	\$ 238,170	\$ 262,071	\$23,901	10.0
Administration	9,927	9,935	8	0.1
<i>less distributed administration</i>	-9,927	-9,935	-8	0.1
<i>loan repayments</i>	-2,807	-4,767	-1,960	69.8
<b>Total</b>	\$ 235,363	\$ 257,304	\$21,941	9.3
<b>Funding Source</b>				
General Fund	\$ -	\$ -	\$ -	0.0
Special Funds	233,658	255,024	21,366	9.1
Bond Funds	-	-	0	0.0
<i>Budget Act Total</i>	233,658	255,024	21,366	9.1
Federal Trust Fund	200	275	75	37.5
Reimbursements	1,505	2,005	500	33.2
<b>Total</b>	\$ 235,363	\$ 257,304	\$21,941	9.3

## 1. Electronic Waste Recycling Program: Technical Adjustment

**Electronic Waste Program.** Electronic Waste (E-waste) is the informal name for electronic products nearing the end of their "useful life." The Electronic Waste Recycling Act of 2003 (SB 20, Sher) requires that certain covered e-waste be recycled rather than sent to the landfill. Electronic devices contain hazardous chemicals that pose a serious threat to human health and the environment.

**Fees.** The e-waste program is funded by fees. On January 1, 2005, retailers began collecting the Electronic Waste Recycling Fee on covered electronic devices from consumers. The initial fees were established by the Legislature in SB 20 and the CIWMB was given the responsibility to annually evaluate the fee levels to maintain sufficient funding to administer the Act. In June 2008, the Board acted to increase the fees to maintain the solvency of the fund. Retailers remit these fees to the Board of Equalization (BOE).

**Auditor Report.** The California State Auditor in its November 2008 report found that some state agencies were improperly disposing of electronic waste. Among the Auditor's findings was that the lack of clear communication from oversight agencies, coupled with some employees' lack of knowledge about E-waste, contributed to the instances of improper waste disposal. Since there are no reports required on the disposal of e-waste, there is no consistent tracking of state agency e-waste disposal.

**Budget Act.** The *2009-10 Budget Act* includes a technical adjustment to the Electronic Waste Recycling Program by a reduction of \$5.7 million in 2009-10 and 2010-11. The decrease is to the consultant and professional line item. Funds for this program come from fees on certain covered electronic devices.

**Fund Condition.** The *2008-09 Budget Act* included budget bill language allowing the CIWMB to borrow funds for the E-waste program because the Electronic Waste Recovery and Recycling Account was close to insolvency. In January 2009 the fees collected by the program were increased.

**Staff Recommendation.** Staff recommends that the Subcommittee ask the department for an update on the e-waste program financial condition and an update on steps taken to address the Auditor's concerns. Also, staff recommends that the Subcommittee keep this item as part of the budget.

## 2. Waste Tire Recycling Management Program Augmentation

**Background.** California produces approximately 40 million waste tires annually. Of these tires, about three-fourths are diverted into productive uses, but 11 million tires a year are still disposed of in landfills. The California Tire Recycling Act of 1989 (AB 1843, Brown) created the Waste Tire Recycling Management Program at the California Integrated Waste Management Board (CIWMB). The program has been successful in creating new uses for waste tires. CIWMB has

stated that the new funds provided in the *2009-10 Budget Act* will help increase the tire recycling rate from 75 percent to 90 percent.

**Budget Act.** The *2009-10 Budget Act* includes \$26 million from the California Tire Recycling Management Fund over three years for the Waste Tire Recycling Management Program. These funds include 4.5 permanent positions and \$2,138,000 in local assistance annually.

**New Department Tasks.** With the funds received in the *2009-10 Budget Act*, CIWMB will:

- **Establish New Equipment Loan Program** – This program will provide \$4 million annually to create additional in-state capacity for processing tires into Tire Derived Aggregate for road construction. The loans are repaid over a 10 year period. \$135,000 and 1.5 PY annually will implement this loan program.
- **Increase Rubberized Asphalt Concrete (RAC) Grant Programs** – This program will be increased from the previous \$2.5 million a year by \$825,000 for a total of \$3,325,000 in grants annually. These grants are awarded to local governments that use rubberized asphalt concrete. \$45,000 and 0.5 PY annually will implement this increase in the grant program.
- **Expend Tire-Derived Product Grant (TDP) Grant Program** – This program will be increased from the previous \$2 million annually to \$3.3 million annually. These grants are designed to promote markets for recycled-content products derived from waste tires generated in California. \$45,000 and 0.5 PY annually will implement this increase in the grant program.
- **Expand Public Education and Outreach on Tire Sustainability/Retreads/RAC** – This is a public education program to reduce the amount of tires that are generated annually. \$2 million a year will be spent on public education and outreach. \$90,000 and one PY will implement this program.
- **Additional Legal Support for New/Expanded Activities Described Above** – The new and expanded programs will require legal support. \$102,000 and one PY annually will provide that legal support.

**Staff Recommendation.** Staff recommends that the Subcommittee review this proposal for public information purposes and keep the funding in the budget.

### 3. Greenhouse Gas Reductions from Solid Waste

**Background.** On June 21, 2007, the Air Resources Board adopted the *Landfill Methane Capture Strategy* as a discrete action measure.

**Proposal.** With these funds, CIWMB would:

- Analyze the economic costs and benefits of solid waste and recycling programs, in support of AB 32 Scoping Plan measures and subsequent implementation. This will provide a basis for determining the best implementation mechanism for each measure, such as market-based, regulatory, or carbon-trading systems. (1 PY)

- Increase recycling from the commercial sector, by evaluating model commercial recycling ordinances and assisting the business sector and local jurisdictions in developing and implementing commercial recycling ordinances. This would also entail assisting businesses, local government, and the waste industry in utilizing a commercial diversion software tool to evaluate costs and savings and calculate reductions in greenhouse gas emissions associated with solid waste activities. (2 PY)
- Partner with the Air Resources Board, California Climate Action Registry (CCAR), and the International Council for Local Environmental Initiatives in developing solid waste management protocols and providing education and outreach to affected stakeholders. These protocols will assist local governments in measuring and reporting greenhouse gas emissions. (1 PY)
- Conduct research to evaluate greenhouse gas emissions associated with product development, manufacturing, use, and disposal. This would entail developing strategies such as economic incentives, improved environmental impact calculators for products, environmental performance standards and labeling, and public outreach. It also would entail identifying data gaps, potential regulations, and potential legislative action. (\$300,000 in contract funds)
- Conduct research on reducing N<sub>2</sub>O emissions at composting facilities. This would include analysis of compost feedstock characteristics and operations parameters to determine their impact on N<sub>2</sub>O emissions. CIWMB would use the study results to assist organics handling businesses, CCAR, and other entities in the development related protocols and operational best management practices to reduce greenhouse gas emissions. (\$500,000 in contract funds)
- Reduce Vehicle Miles Traveled (VMT) through the optimization of solid waste and recycling routes. This would entail assisting key stakeholders and local jurisdictions with evaluation and implementation of optimization schemes to reduce VMT associated with transportation of solid waste and recycling materials. (1 PY)

**Budget Act.** The 2009-10 *Budget Act* includes \$1,312,000 from redirected funds, including six positions and \$800,000 in contract funds, for implementing programs that minimize methane emissions from landfills including increased source reduction and recycling, developing viable and sustainable markets to divert materials from landfills, and encouraging new technologies. This proposal also includes \$501,000 for 2010-11. The funds for both 2009-10 and 2010-11 will come from a redirection of the Waste Characterization Study funds.

**Staff Comments.** The Air Resources Board (ARB) is the regulatory agency for AB 32 implementation, and it is unclear to staff why another agency needs resources to implement ARB's regulations.

Some of the expenses do not seem fully justified. For example, the proposal requests two positions to increase recycling from the commercial sector. It seems that this task should already be underway as part of the CIWMB's core mission. Staff recommends that the Subcommittee request the department for more justification for this increase in position authority.

In addition, staff thinks that the one position to reduce the vehicle miles traveled by commercial sector vehicles needs more justification. Since there is no carbon fee added on to the cost of

recycling, commercial sector recyclers will most likely continue to use the lowest cost service rather than the recycling service with the least carbon output.

Staff also recommends that the Subcommittee request the department to elaborate on the benefit of examining the carbon output of goods production. The department's request for \$300,000 in contract funds to examine the carbon output of goods production will not be necessary if the Air Resources Board implements a carbon fee that raises the amount of carbon produced to a business decision.

**Staff Recommendation.** Staff recommends that the Subcommittee provide the department with time to respond to staff concerns and return to this item in the May open issues hearing.

## 4. Used Oil Recycling Budget Bill Language

**Background.** AB 2076, the California Oil Recycling Enhancement Act (1991, Sher) requires the California Integrated Waste Management Board (CIWMB) to administer a statewide used oil recycling program to promote and develop alternatives to the illegal disposal of used oil. The program is funded from the Used Oil Recycling Fund, which receives its funding from a \$0.16 per gallon fee paid by lubricating oil manufacturers. Industrial oil is exempt from this fee.

Since 2000, the sale of lubricant oil in California has steadily declined. The major reason for this is believed to be the larger number of miles new vehicles can travel between oil changes. In 2000-01, the Used Oil Recycling Fund revenues were about \$22 million, but in 2009-10 the fund's revenues are projected at \$16 million.

**Grant Programs.** The Act established four grant programs to promote used oil recycling infrastructure: Block, Opportunity, Non-Profit, and Research, Testing, and Demonstration. According to current statute, the CIWMB must expend on the Block grants either \$10 million or 50 percent of the Used Oil Recycling Fund balance, whichever is greater. However, the CIWMB is statutorily required to pay for other programs out of the Used Oil Recycling Fund as well. In 2009-10 the Used Oil Recycling Fund Balance is projected to be \$16 million and if the CIWMB funds both the Block grant \$10 million mandatory expenditure and the other statutorily required programs, these expenditures combined would create a deficit in the fund.

**Budget Act.** The *2009-10 Budget Act* includes budget bill language to allow CIWMB to use no less than half of the amount which remains in the Used Oil Recycling Fund after expenditures, even when this amount is less than \$10 million. Budget bill language is in effect for one year only.

**Staff Comment.** The Used Oil Recycling Fund balance has been dropping over the last several years. The current statute assumes that there will always be more than \$10 million in the fund and places pressures on the fund above what is required for the grant program. A long-term solution must be found for the fund, either in reducing the fund's obligations or raising more revenue. The proposed budget bill language provides the Legislature with one year to come up with a policy solution.

## 3930 Department of Pesticide Regulation

**Background.** The Department of Pesticide Regulation (DPR) administers programs to protect the public health and the environment from unsafe exposures to pesticides. The department: (1) evaluates the public health and environmental impact of pesticides use; (2) regulates, monitors, and controls the sale and use of pesticides in the state; and (3) develops and promotes the use of reduced-risk practices for pest management. The department is funded primarily by an assessment on the sale of pesticides in the state.

**Budget Act.** The 2009-10 Budget Act includes \$73.4 million to support the DPR in 2009-10, which is a one percent increase over the level of expenditures as in the current year. The department does not receive any General Fund support.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Pesticide Programs	\$ 72,720	\$ 73,471	\$751	1.0
Administration	10,789	10,568	-221	-2.1
<i>less distributed administration</i>	-10,789	-10,568	221	-2.1
<b>Total</b>	\$ 72,720	\$ 73,471	\$751	1.0
<b>Funding Source</b>				
General Fund	\$ -	\$ -	\$ -	0.0
Special Funds	69,924	70,449	525	0.8
<i>Budget Act Total</i>	69,924	70,449	525	0.8
Federal Trust Fund	2,237	2,257	20	0.9
Reimbursements	559	765	206	36.9
<b>Total</b>	\$ 72,720	\$ 73,471	\$751	1.0

## 1. Volatile Organic Compounds

**Volatile Organic Compounds.** Pesticides emit volatile organic compounds (VOC) that contribute to smog. In California's central valley approximately six percent of the smog is caused by pesticides. VOCs contribute to the formation of ground-level ozone, which is harmful to human health and vegetation when present at high enough concentrations. The federal Clean Air Act requires each state to submit a State Implementation Plan (SIP) for achieving and maintaining federal ambient air quality standards, including the standard for ozone. Nonattainment areas (NAAs) are regions in California that do not meet either federal or state ambient air quality standards. California has five nonattainment areas: San Joaquin Valley, Sacramento Metro, South Coast, Southeast Desert, and Ventura.

**Lawsuits.** In 2006, a federal judge ruled that the Department of Pesticide Regulation (DPR) ignored clean air laws for pesticides. The lawsuit said DPR failed to apply clean air rules to pesticides, dating back to 1997. The judge ordered the department to write regulations that would cut pesticide emissions in the Central Valley by 20 percent from 1991 levels.

The Ninth Circuit Court of Appeals in San Francisco overturned the findings of the federal judge in August 2008. As a result of the Appeals Court victory, the Department of Pesticide Control is now finalizing new regulations that call for a smaller decrease - a 12 percent cut from 1990 levels.

**Past Budget Action.** In the *2008-09 Budget Act*, DPR received \$2.6 million and 11 positions to implement VOC regulations.

**Staff Comments.** Staff recommends that the Subcommittee ask the department to explain why the 12 percent reduction in VOCs was selected. Also, staff recommends that the Subcommittee ask the department to present to the Subcommittee what has been accomplished so far in implementing VOC regulations.



## 3960 Department of Toxic Substances Control

**Background.** The Department of Toxic Substances Control (DTSC) regulates hazardous waste management, cleans up or oversees the cleanup of contaminated hazardous waste sites, and promotes the reduction of hazardous waste generation. The department is funded by fees paid by persons that generate, transport, store, treat, or dispose of hazardous wastes; environmental fees levied on most corporations; the General Fund; and federal funds.

**Budget Act.** The 2009-10 Budget Act includes \$197.8 million to support the DTSC in 2009-10. This is almost the same as the estimated expenditures in the current year.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Site Mitigation and Brownfields Reuse	\$ 110,470	\$ 111,060	\$590	0.5
Hazardous Waste Management	70,014	65,141	-4,873	-6.9
Science, Pollution Prevention, and Technology	14,858	19,715	4,857	32.7
State as Certified Unified Program Agency	1,647	1,964	317	19.3
Capital Outlay	2,656	-	-2,656	-100.0
Administration	33,149	33,198	49	0.2
<i>less distributed administration</i>	<i>-33,149</i>	<i>-33,198</i>	<i>-49</i>	<i>0.0</i>
<b>Total</b>	<b>\$ 199,645</b>	<b>\$ 197,880</b>	<b>-\$1,765</b>	<b>-0.9</b>
<b>Funding Source</b>				
General Fund	\$ 25,540	\$ 22,275	-\$3,265	-12.8
Special Funds	131,281	129,666	-1,615	-1.2
<i>Budget Act Total</i>	<i>156,821</i>	<i>151,941</i>	<i>-4,880</i>	<i>-3.1</i>
Federal Trust Fund	27,391	32,983	5,592	20.4
Reimbursements	12,433	12,869	436	3.5
Stringfellow Insurance Proceeds Account	3,000	87	-2,913	-97.1
<b>Total</b>	<b>\$ 199,645</b>	<b>\$ 197,880</b>	<b>-\$1,765</b>	<b>-0.9</b>

## 1. Realignment of Funding for TSCA and HWCA Program Activities

**Background.** The Department of Toxic Substances Control (DTSC) is primarily funded by two special funds: the Toxic Substances Control Account (TSCA) and the Hazardous Waste Control Account (HWCA). The HWCA revenues come from fees paid by hazardous waste generators, transporters, and disposers. The major revenue sources of TSCA are the environmental fee, which is a broad-based assessment on all businesses handling hazardous materials with 50 or more employees, and cost recovery from parties responsible for hazardous waste substance releases.

**Budget Act.** The *2009-10 Budget Act* includes an on-going shift of \$4,795,000 from the Hazardous Waste Control Account to the Toxic Substances Control Account to cover activities related to the regulation and enforcement of toxic substances in products. However, this funding shift cannot be implemented by the Department of Finance because the accompanying trailer bill language is not part of the *2009-10 Budget Act*.

**Trailer Bill Language.** This funding shift requires trailer bill language. The Department of Finance is still finalizing this bill, and will submit it to the Budget Committee in the future.

**Staff Comment.** The department has stated that this fund shift would not result in a change in the fees collected. The trailer bill language was not approved as a part of the February 2009 budget package.

**Staff Recommendation.** Staff recommends that the Subcommittee return to this item when the trailer bill is received and reviewed by all Subcommittee members.

## 2. Green Chemistry Implementation – AB 1879

**Green Chemistry Initiative.** In 2007, CalEPA began the development of a coordinated, comprehensive strategy designed to foster the development of information on the hazards posed by chemicals, ways to reduce exposure to dangerous substances, approaches that encourage cleaner and less polluting industrial processes, and strategies to encourage manufacturers to take greater responsibility for the products they produce. Green chemistry offers a systematic means of comparing options, weighing different hazard traits and environmental endpoints, and considering production, performance, and cost factors as well as other appropriate attributes. Green chemistry is a comprehensive means for preventing dangerous chemicals from entering consumer products at the design and manufacturing stages.

**AB 1879.** AB 1879 (Feuer, 2008) provides the Department of Toxic Substances Control (DTSC) with the authority to establish procedures in regulation to identify and prioritize chemicals of concern. In addition, AB 1879 establishes procedures in regulation to evaluate alternatives to chemicals of concerns in products, and to specify regulatory responses where chemicals of concern are found in products.

**Budget Act.** The *2009-10 Budget Act* includes \$2,144,000 (\$1,239 from the Toxic Substances Control Account and \$905,000 from the Hazardous Waste Control Account) for implementation of AB 1879. This budget item redirects \$2,144,096 for 11 positions and contract funds to work on the Green Chemistry initiative. An additional \$1,082,049 for 5.5 positions will be redirected in 2010-11.

**Staff Recommendation.** Staff recommends that the Subcommittee keep this item in the budget.

### 3. Toxics Information Clearinghouse – SB 509

**Green Chemistry Clearinghouse.** In 2007, CalEPA began the development of Green Chemistry: a coordinated, comprehensive strategy designed to foster the development of information on the hazards posed by chemicals, ways to reduce exposure to dangerous substances, approaches that encourage cleaner and less polluting industrial processes, and strategies to encourage manufacturers to take greater responsibility for the products they produce. As part of the Green Chemistry development, CalEPA developed a report with recommendations for action. One of these recommendations was the development of an online toxics clearinghouse.

The online toxics clearinghouse would build on efforts by other governments and authoritative bodies worldwide to fill chemical information gaps and ensure that hazards and toxicity data is developed and made publicly accessible via online. The intent is to improve the ability of businesses, government, and consumers to shift toward less toxic alternatives in products.

**SB 509.** SB 509 (Simitian, 2008) requires the Department of Toxic Substances Control (DTSC) to:

- Establish the clearinghouse, a decentralized, web-based system for collection, maintenance, and distribution of specific chemical hazard trait and environmental and toxicological end-point data.
- Make the clearinghouse available to the public through a single internet web portal and to operate it at the lowest cost possible.
- Develop the design of the clearinghouse, data quality standards, and test methods that govern the data to be eligible for the clearinghouse.
- Ensure that the clearinghouse has the capacity needed to display updated information as new data becomes available.
- Consult with other states, the federal government, and other nations to identify available data on the following: hazard traits and environmental and toxicological endpoints.
- Facilitate the development of regional, national, and international data sharing arrangements to be included in the clearinghouse.

**Budget Act.** The *2009-10 Budget Act* includes \$233,000 from the Toxic Substances Control Account and redirecting two staff positions for two years to implement SB 509.

**Staff Recommendation.** Staff recommends that the Subcommittee keep this item in the budget.

#### 4. Public Protection from Sales of Noncompliant Electronics

**Background.** SB 20 (Sher, 2003) created the Electronic Recycling Act, which mandates that certain electronic devices exceeding hazardous metal content limitations not be sold or offered for sale in California. Currently California does not have standard testing methods for hazardous metals in electronic devices. The Department of Toxic Substances Control (DTSC) is forced to rely on self-reporting by manufacturers. DTSC also does not have the legal authority to require product testing from manufacturers based outside of California.

**Product Testing.** DTSC intends to purchase analytical laboratory equipment that would allow the department to test hazardous metal content in electronic devices. The metals that would be tested for are cadmium, chromium, lead, and mercury.

**Budget Act.** The *2009-10 Budget Act* includes \$242,000 in one-time funds from the Electronic Waste Recovery and Recycling Account for analytical laboratory equipment.

**Staff Recommendation.** Staff recommends that the Subcommittee review this proposal for public information purposes and keep the funding in the budget.

## 3980 Office of Environmental Health Hazard Assessment

**Background.** The Office of Environmental Health Hazard Assessment (OEHHA) identifies and quantifies the health risks of chemicals in the environment. It provides these assessments, along with its recommendations for pollutant standards and health and safety regulations, to the boards and departments in the California Environmental Protection Agency and to other state and local agencies. The OEHHA also provides scientific support to environmental regulatory agencies.

**Budget Act.** The 2009-10 Budget Act includes \$19.8 million to support the OEHHA in 2009-10. This is a higher level of expenditures in the current year due to an increase in reimbursements.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Health Risk Assessment	\$ 18,236	\$ 19,809	\$1,573	8.6
Administration	3,499	3,532	33	0.9
<i>less distributed administration</i>	<i>-3,499</i>	<i>-3,532</i>	<i>-33</i>	<i>0.9</i>
<b>Total</b>	<b>\$ 18,236</b>	<b>\$ 19,809</b>	<b>\$1,573</b>	<b>8.6</b>
<b>Funding Source</b>				
General Fund	\$ 8,282	\$ 8,340	\$ 58	0.7
Special Funds	6,071	6,241	170	2.8
<i>Budget Act Total</i>	<i>14,353</i>	<i>14,581</i>	<i>228</i>	<i>1.6</i>
Federal Trust Fund	514	414	-100	-19.5
Reimbursements	2,444	3,387	943	38.6
<b>Total</b>	<b>\$ 17,311</b>	<b>\$ 18,382</b>	<b>\$1,071</b>	<b>6.2</b>

## 1. Green Chemistry: Toxics Information Clearinghouse

**Background.** SB 509 (Simitian, 2008) requires the establishment of an online Toxics Information Clearinghouse as a web-based system for collecting, maintaining, and distributing available hazard trait and toxicological data on chemical substances. The Clearinghouse will provide a comprehensive, publicly accessible database of information on hazardous chemicals. The Toxics Information Clearinghouse, when implemented, will be the first publicly visible product of the Green Chemistry Initiative and the first state-operated Clearinghouse on chemical information in the United States.

**Department Tasks.** The Office of Environmental Health Hazard Assessment (OEHHA) will gather available hazard trait information from existing summaries as well as the published literature for chemicals used in California, including those in consumer products. OEHHA will also seek information from the federal government and other nations to fill the data gaps. This information will then be used to populate the Toxics Information Clearinghouse. Specifically, OEHHA will complete:

- Evaluation and specification of the chemical hazard traits, toxicological endpoints, and other relevant data to be included in the Clearinghouse;
- Consultation with Department of Toxic Substances Control and all appropriate state agencies in carrying out this evaluation;
- Participation in public workshops to obtain stakeholder input; and
- Consultation with other state, federal, and international agencies to seek appropriate input and available data.

**Budget Act.** The *2009-10 Budget Act* includes a redirection of two positions. The cost of these positions is \$245,000 annually from the Used Oil Recycling Fund.

The two positions being redirected are staff toxicologists from the California Used Oil Recycling Fund who investigated the human and environmental effects of exposure to used oil. This redirection will reduce the number of reports on various aspects of exposure to used oil from about one report annually to one report every two years.

**Staff Recommendation.** Staff recommends that the Subcommittee keep this item in the budget.

## 2. Funding Shift – LAO Recommendation

**OEHHA Duties.** The OEHHA identifies and quantifies the health risks of chemicals in the environment. It provides these assessments, along with its recommendations for pollutant standards and health and safety regulations, to the boards and departments in Cal-EPA and to other state and local agencies. The OEHHA also provides scientific support to environmental regulatory agencies.

**OEHHA General Fund.** OEHHA receives \$8.3 million in General Fund support. Multiple OEHHA programs have at least some level of General Fund support, while some programs are funded entirely by special funds.

**OEHHA Services.** OEHHA provides services in the form of assessments and recommendations to regulatory programs administered by other state agencies. Many of OEHHA's regulatory program support activities receiving General Fund support are already partially funded with fee-based special funds. The LAO recommends going further where such a special fund is available to assume the General Fund's current funding contribution. After accounting for such activities, the LAO has concluded that there is the potential to shift up to about \$5 million of OEHHA's funding from the General Fund to fees.

**Some General Fund is Appropriate.** On the other hand, some of OEHHA's activities have more of a broad-based public health focus – such as those related to children's health and Proposition 65, a 1986 initiative measure that requires the state to annually publish a list of cancer-causing chemicals and inform citizens about exposures to these chemicals. These activities cannot be reasonably or easily connected with discrete regulatory programs. The LAO argues that General Fund continues to be the appropriate primary funding source for these activities.

**Questions:**

1. Could the LAO please identify which funding shifts would require statutory changes?
2. Could the LAO please identify which funding shifts would require an increase in the fees collected?